

Section 326 Summary

- On Wednesday, July 17, Treasury, jointly with the seven federal financial regulators, will issue proposed rules that will require financial institutions to establish minimum procedures for identifying and verifying the identity of customers seeking to open financial accounts. The proposed rules implement section 326 of the USA PATRIOT Act for the following industries:
 1. banks, savings associations, and credit unions;
 2. securities brokers and dealers;
 3. mutual funds;
 4. futures commission merchants and introducing brokers; and
 5. credit unions, private banks and trust companies that do not have a federal regulator.

The seven federal financial regulators include: the Board of Governors of the Federal Reserve System; Commodity Futures Trading Commission; Federal Deposit Insurance Corporation; National Credit Union Administration; Office of the Comptroller of the Currency; Office of Thrift Supervision; and the Securities and Exchange Commission.

- While separate rules reflecting differences in the operation of these financial institutions are being issued, they are intended to have the same effect on all the various industries. The regulations were developed jointly, and propose that minimum customer identification requirements be standardized.
- The proposed rules require the above-referenced financial institutions to do the following:
 1. Establish a customer identification program with reasonable procedures for identifying any person, including businesses, seeking to open an account. The procedures must specify the type of identifying information that the financial institution will require. At a minimum, for U.S. citizens the regulations require financial institutions to obtain the following information: name, address, taxpayer identification number, and for individuals, date of birth. A financial institution is given the discretion to decide what type of information it will request of a non-U.S. citizen in place of a taxpayer identification number. A financial institution may accept one or more of the following: a U.S. taxpayer identification number; a passport number and country of issuance; an alien identification card number; or the number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard.¹ For businesses opening accounts, financial institutions must identify any individual with signatory authority over the account.
 2. Establish procedures for verifying the identity of customers seeking to open an account. The proposed rules require financial institutions to set forth procedures describing how identification will be verified, when it will use documents for this purpose, and when it will use other methods in lieu of or in addition to documents. While the rule is flexible

¹ Thus, the proposed regulations do not discourage bank acceptance of the "matricula consular" identity card that is being issued by the Mexican government to immigrants.

concerning how verification will be accomplished, it sets a minimum standard that the bank is ultimately responsible for exercising reasonable efforts to identify customers, and the financial institution's procedures must enable it to form a reasonable belief that it knows a customer's true identity.

3. Maintain records of information used to verify a customer's name, address, and other identifying information. Such records must include the customer information; the type of documents reviewed as well as a copy of them; and the means and result of any other measures taken to identify the customer, including the resolution of any discrepancy in the identification information obtained.
4. Determine whether customers appear on any lists of known or suspected terrorists issued by the Federal government.
5. Develop procedures for determining when an account should not be opened (or when an existing account should be closed) as a result of an inability to verify the identity of a customer. Such procedures must include determining when an account may be opened while a customer's identity is being verified, and whether a suspicious activity report should be filed.